

REMARKS

Claims 26-30, 32 and 39-55 are pending in this application with claim 39-55 having been withdrawn from consideration under a restriction requirement.

Claims 26, 27, 29 and 32 were rejected as anticipated by Klein U.S. Patent number 5,810,767. Claims 26 and 28-30 rejected as anticipated by Brown U.S. Patent number 6,219,577. Claim 34, 35, 37 and 38 were rejected as anticipated by Shaknovich US Patent number 5,749,890 while claim 36 was rejected as obvious over Shaknovich.

The Cited Art

Klein '767 is directed to apparatus for infusing a therapeutic/diagnostic fluid media to a target site (5:32-34). A radially expansible infusion sleeve 12 has a central receptacle 24 for receipt of a balloon B or other expandable element. Infusion sleeve 12 also includes a plurality of infusion tubes 25 having infusions ports 28 formed therein (8: 41-65). The radial expansibility of the infusion sleeve may be provided by the use of an expansible braided material (6:35-40). The therapeutic/diagnostic fluid is pumped through ports 28 by a syringe or pump (8:47-48) after the infusion sleeve has been expanded (11:43-64). Fluid introduced through ports 28 will penetrate the wall tissue and flow into pocket reservoirs 34 at pressures of about 0.5-10 psi (9:22-27 and 11:61-64).

Brown '577 discloses a catheter 10 having what the patent calls an "expandable tubular braided sleeve 20". Sleeve 20 comprises "wires or electrodes 24 mounted around and parallel to the catheter body 16." (9:4-6) The middle regions of electrodes 24 are coated with a drug/agent to permit the drug/agent to be delivered to the tissue when electrodes are expanded (9:17-22). Electrodes 24 are secured to rings 34, 36 with ring 34 being fixed to catheter 10 and ring 36 being slidable along the proximal portion 12 of catheter 10 (10:1-21). An outer guide tube 38 is used to draw rings 34, 36 toward one another causing electrodes 24 to expand to the state of figure 2 (10:35-53). "There are adequate open interstices in the remainder of the network closer to the support catheter body 10 for blood to flow through the artery during electrical pulsing and drug delivery. This is greatly advantageous over catheters having electrodes positioned within or on the surface of an occlusive balloon in terms of reducing ischaemic risk." (10:64-11:2)

It appears that Brown '577 calls parallel electrodes 24 and polyester monofilaments 28 "braid". This, however, is a misuse of the word braid. One dictionary, "The American Heritage Dictionary of the English language, New College Edition", defines braid as "1. To interweave three

or more strands of; to plait. ... 1. A narrow length of fabric, hair or other material that has been braided or plaited." Just as calling a chicken a duck does not transform the chicken into a duck, calling the parallel electrodes 20 and polyester monofilaments 28 braid does not transform the parallel electrodes 20 and polyester monofilaments 28 into braid.

The Cited Art Distinguished

Independent claim 26 is allowable over **Klein '767** for the following reasons. First, the Examiner states that Klein discloses positioning a porous tubular braid with a contact dispensable agent. However, as discussed above, the tubular braid portion of Klein, see figure 13 and 14 of Klein, would be spaced radially inwardly from the target tissue and would not comprise a contact-dispensable agent. Rather, the agent of Klein is a pump dispensable agent which passes through ports 28 formed in tubes 25. Second, the tubular braid of Klein is not expanded against the body tissue to make intimate contact with the body tissue as presently claimed. Rather, tubes 25 of Klein make intimate contact with the body tissue while any tubular braid would be spaced apart from the body tissue. Third, no agent is dispensed from the tubular braid into the body tissue is claimed. With Klein, the agent is dispensed through ports 28 formed in tubes 25, not through any tubular braid.

Independent claim 26 is allowable over **Brown '577** for a very basic reason. As discussed above, Brown does not disclose tubular braid. In addition, the patent teaches that only the electrodes 20 (and optionally monofilaments 28) expand to touch the vessel wall therefore permitting relatively free flow of blood during use. Therefore, Brown '577 teaches radially extending parallel, axially-extending wires/monofilaments against the vessel wall to promote free blood flow during use and teaches away from expanding a true tubular braid against the body tissue because doing so would impede blood flow and would therefore be against the teachings of Brown. **Independent method claim 30** is allowable over Brown for the same basic reasons.

The **dependent claims** are directed to specific novel subfeatures of the invention and are allowable for that reason as well as by depending from novel parent claims. For example, **claim 28** recites in part selecting an absorbent fiber tubular braid; there is nothing in the art that suggests that polyester monofilaments 28 are absorbent. **Claim 29** recites that dispensing step is carried out as a result of the expanding step; in contrast, Klein teaches dispensing the agent after the expanding step, not as a result of the expanding step.

In light of the above remarks and the amendments to the claims, applicant submits that the application is in condition for allowance and action to that end is urged. If the Examiner believes a telephone conference would aid the prosecution of this case in any way, please call the undersigned at (650) 712-0340.

Respectfully submitted,

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